



Senate Judiciary Committee

HB 4629

May 10, 2016

The ACLU of Michigan supports HB 4629 because we believe that when the government takes your property, you should have unencumbered access to due process.

In civil asset forfeiture cases, the government has the right to take property under the premise that the property was used to promote or as a benefit of illegal activity. A person who had property taken under civil asset forfeiture has the right to a hearing to contest the forfeiture, but under Michigan law, in order to access that due process right the individual is required to post a bond set at 10% of the value of the property.

Under current law, unless you have the money to post a bond, you don't get any due process. And the government keeps your property even if you could prove that the property was improperly forfeited.

Consider this case from Grand Rapids: The police raided Ms. Kinnon's home because of the illegal activities of Ms. Kinnon's husband. The police took most of Ms. Kinnon's property, including a couple of cars. Ms. Kinnon could not afford to post the entire bond. She didn't have enough cash to post 10% of the value of all the things that were taken.

Ms. Kinnon took her case to trial and the judge found that the property wasn't related to the illegal activity and ordered her property returned. But because she couldn't afford to post full bond the police had already sold her car without ever giving her the chance to prove that – like the rest of her things – it was illegally acquired under civil asset forfeiture.

The ACLU litigated a similar case in Alpena County. There the police took almost \$20,000 from Carmen Villeneuve, alleging that the money was from drugs. Ms. Villeneuve claimed the money was from a car accident. But because the police had taken all of her money, she didn't have \$2000 to post bond. And Ms. Villeneuve was denied a hearing. Only after an appeal was filed did the prosecutor agree to a hearing.

These cases are symptomatic of civil asset forfeiture cases across the state. It is fundamentally unfair for the government to take your property, and then deny due process unless you can pay for it.

Michigan citizens should not have to buy the due process afforded by our Constitution, and this bill would guarantee that right.

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